

DECISION

Dispute Codes MND, MNDC, MNSD, FF, O, DRI, OLC, ERP, RP, LRE, OPT

Introduction

There are applications filed by both parties.

The Tenant has applied for an order of possession, a dispute of an additional rent increase, a monetary order request for harassment and loss of quiet enjoyment, an order for the Landlord to comply with the Act, make emergency repairs for health or safety reasons, make repairs to the unit and suspend or set conditions on the landlord's right to enter the rental unit.

The Landlord has applied for a monetary order for damage to the unit, for money owed or compensation for loss of rental income, to keep part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony.

During the hearing it was determined through the Tenant's testimony that no additional rent increase notice was received or paid. It was further determined that emergency repairs and repairs are not being sought.

The Landlord has also withdrawn all portions of her monetary claim except for the loss of rental income totalling \$430.00.

Issue(s) to be Decided

Is the Tenant entitled to an order of possession?

Is the Tenant entitled to a monetary order?

Is the Tenant entitled to an order for the Landlord to comply with Act?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to keep part of the security deposit?

Background and Evidence

This Tenancy began on September 1, 2010 on a fixed term tenancy for 6 months, which has been modified a few times to the current agreement showing an end on July 31,

2011. The option of ending the tenancy at the end of the fixed term was initialled by both parties. The monthly rent indicated is for \$380.00 which is to be made payable on the 1st of each month. A \$100.00 security deposit was paid, of which \$50.00 has been returned to the Tenant.

The Landlord states that the signed tenancy agreement shows that a fixed term of 6 months ending on July 31, 2011 was agreed to by the Tenant. The agreement further shows that both parties initialled section 2 (b) (ii) "the tenancy ends and the tenant must move out of the residential unit if you choose this option, both the landlord and tenant must initial in the boxes to the right." The Tenant confirms the 6 month fixed term tenancy which shows him initialling the agreement. The Tenant does not dispute the agreement, but that his understanding was that his tenancy was now on a month to month basis. The Tenant states that no new tenancy agreement was entered into. The Landlord claims that the Tenant over held the rental unit until August 4, 2011 which the Tenant has confirmed. No August rent was paid by the Tenant.

The Landlord seeks a monetary claim of \$430.00 for loss of rental income. The Tenant disputes these claims. The Tenant in his direct testimony confirmed that he did not vacate the rental unit until August 4, 2011 nor did he pay rent for August 2011.

The Tenant is seeking a claim of \$8,000.00 for harassment and hardship from the Landlord. The Tenant has provided no evidence of loss or how he arrived at this amount. The Tenant stated that the amount was not set by any specific loss, but what the arbitrator thought was fair compensation. The Landlord has disputed that no harassment has occurred. The Tenant has not provided any evidence that notice was given to the Landlord to deal or correct any issues. The Tenant further states that he only filed complaints directly with the city of Surrey.

Analysis

As both parties attended the hearing by conference call and have referred to the other party's evidence in detail, I am satisfied that both have been properly served with the notice of hearing and evidence packages supplied by both.

I find that through the Tenant's own documentary and direct evidence that the Landlord's claim that the Tenancy ended on July 31, 2011 as per the signed tenancy agreement has been established. The Tenant's request for an order of possession is dismissed and as such that the Tenancy is at an end.

Based upon the conflicting evidence of both parties and a lack of supporting evidence by the Landlord, I find that the Landlord has established a claim for monetary compensation for the loss of rental income due to the Tenant over holding the rental unit by 4 days. This fact was confirmed by the Tenant and that no August rent was paid. As such, I find that the Landlord is entitled to recovery of lost rent of \$50.00 from the Tenant.

I find that the Tenant has failed to provide any evidence of loss or continuing harassment. The Tenant has given no basis for the \$8,000.00 claim being sought. As such, I find that there is insufficient evidence and that the Tenant has failed in his application.

As the Landlord is successful on a limited basis for her claim, I find that the Landlord shall cover the cost of her application and recovery of the filing fee is dismissed. The Landlord is still in possession of \$50.00 of the original \$100.00 security deposit. As such, I order that the Landlord retain the remaining \$50.00 in satisfaction of her claim.

Conclusion

The Tenant's applications are dismissed.

The Landlord's application for a monetary order is dismissed.

The Landlord may retain the remaining \$50.00 of the security deposit for loss of 4 days of rental income.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 30, 2011.

Residential Tenancy Branch